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7 Attorneys for Plaintiffs
 BROADCAST MUSIC, INC. et al.

8 UNITED STATES DISTRICT COURT
 9
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN JOSE DIVISION

12 BROADCAST MUSIC, INC.; MICHAEL JOE
 JACKSON, d/b/a MIJAC MUSIC; ABKCO
 13 MUSIC, INC.; STARFAITH, L.P., A LIMITED
 PARTNERSHIP CONSISTING OF GUTS AND
 14 GRACE RECORDS, INC. AND CARLOS
 SANTANA AND DEBORAH SANTANA, AS
 15 TRUSTEES OF THE SANTANA FAMILY
 TRUST, d/b/a LIGHT MUSIC; FANTASY,
 16 INC. d/b/a JONDORA MUSIC; CAREERS-BMG
 MUSIC PUBLISHING, INC.; STARFAITH, L.P.,
 17 A LIMITED PARTNERSHIP CONSISTING OF
 GUTS & GRACE RECORDS, INC. AND
 18 CARLOS AND DEBORAH SANTANA
 FAMILY TRUST, d/b/a STELLABELLA
 19 MUSIC; MICHAEL SHRIEVE, AN
 INDIVIDUAL d/b/a MAITREYA MUSIC; EMI
 20 BLACKWOOD MUSIC, INC.,

21 Plaintiffs,

22 v.

23 G&M GAME CORPORATION; KRAZY
 KOYOTE BAR & GRILL; GEORGE D.
 24 HEADLEY, JR. & MARCOS ANTHONY
 HEADLEY, each individually,

25 Defendants.
 26
 27
 28

ORIGINAL FILED

MAY - 8 2007

RICHARD W. WIERING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE

No. **C07 02453**
 COMPLAINT FOR COPYRIGHT
 INFRINGEMENT

CRB

COPY

HOWARD
 RICE
 NEMEROVSKI
 CANADY
 FALK
 & RABKIN

1 Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on
2 knowledge as to Plaintiffs; otherwise on information and belief):

4 JURISDICTION AND VENUE

5 1. This is a suit for copyright infringement under the United States Copyright Act of
6 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has
7 jurisdiction pursuant to 28 U.S.C. Section 1338(a).

8 2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

10 THE PARTIES

11 3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized and existing
12 under the laws of the State of New York. BMI's principal place of business is 320 West 57th
13 Street, New York, New York 10019. BMI has been granted the right to license the public
14 performance rights in approximately 6.5 million copyrighted musical compositions (the "BMI
15 repertoire"), including those which are alleged herein to have been infringed.

16 4. The other Plaintiffs are the owners of the copyrights in the musical compositions
17 which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P.
18 17(a) and 19(a).

19 5. Defendant G&M Game Corporation is a corporation organized and existing under
20 the laws of the state of California, which operates, maintains and controls an establishment
21 known as Krazy Koyote Bar & Grill, located at 8337 Church Street, Gilroy, CA 95020, in
22 this district (the "Establishment").

23 6. In connection with the operation of this business, Defendant G&M Game
24 Corporation publicly performs musical compositions and/or causes musical compositions to
25 be publicly performed.

26 7. Defendant G&M Game Corporation has a direct financial interest in the
27 Establishment.

28 8. Defendant George D. Headley, Jr. is an officer of Defendant G & M. Game

1 Corporation with primary responsibility for the operation and management of that G & M
2 Game Corporation and the Establishment.

3 9. Defendant George D. Headley, Jr. has the right and ability to supervise the activities
4 of Defendant G & M Game Corporation and a direct financial interest in that corporation and
5 the Establishment.

6 10. Defendant Marcos Anthony Headley is an officer of Defendant G & M. Game
7 Corporation with responsibility for the operation and management of that G & M Game
8 Corporation and the Establishment.

9 11. Defendant Marcos Anthony Headley has the right and ability to supervise the
10 activities of Defendant G & M Game Corporation and a direct financial interest in that
11 corporation and the Establishment.

12 13 **CLAIMS OF COPYRIGHT INFRINGEMENT**

14 12. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1
15 through 11.

16 13. Plaintiffs allege nine (9) claims of copyright infringement, based upon
17 Defendants' unauthorized public performance of musical compositions from the BMI
18 repertoire. All of the claims for copyright infringement joined in this Complaint are
19 governed by the same legal rules and involve similar facts. Joinder of these claims will
20 promote the convenient administration of justice and will avoid a multiplicity of separate,
21 similar actions against Defendants.

22 14. Annexed as the Schedule and incorporated herein as Exhibit A is a list identifying
23 some of the many musical compositions whose copyrights were infringed by Defendants.
24 The Schedule contains information on the nine (9) claims of copyright infringement at issue
25 in this action. Each numbered claim has the following eight lines of information: Line 1
26 providing the claim number; Line 2 listing the title of the musical composition related to that
27 claim; Line 3 identifying the writer(s) of the musical composition; Line 4 noting the
28 publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim

1 at issue; Line 5 providing the date on which the copyright registration was issued for the
2 musical composition; Line 6 indicating the Registration number(s); Line 7 showing the
3 date(s) of infringement; and Line 8 identifying the name(s) of the Establishment(s) where
4 the infringement occurred (all references to "Lines" are to lines on the Schedule).

5 15. Each of the musical compositions identified on the Schedule, Line 2, was created
6 by the person(s) named on Line 3.

7 16. On or about the dates indicated on Line 5, the publishers named on Line 4
8 (including any predecessors in interest), complied in all respects with the requirements of the
9 Copyright Act and received from the Register of Copyrights Certificates of Registration
10 bearing the numbers listed on Line 6.

11 17. On the dates listed on Line 7, Plaintiff BMI was and still is the licensor of the
12 public performance rights in the musical compositions identified on Line 2. On the dates
13 listed on Line 7, the Plaintiffs listed on Line 4 were and still are the owners of the copyright
14 in the respective musical composition listed on Line 2.

15 18. On the dates listed on Line 7, Defendants performed and/or caused the musical
16 compositions identified on Line 2 to be publicly performed on the premises of Krazy Koyote
17 Bar & Grill without a license or permission to do so. Thus, Defendants have committed
18 copyright infringement.

19 19. Defendants performed and/or caused such musical compositions to be publicly
20 performed notwithstanding repeated warnings from Plaintiff BMI that the performance on
21 the premises of Krazy Koyote Bar & Grill, without permission from the copyright owners,
22 did and would constitute infringement of copyright in violation of Title 17 of the United
23 States Code.

24 20. The specific acts of copyright infringement alleged, as well as Defendants' entire
25 course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By
26 continuing to provide unauthorized public performances of works in the BMI repertoire at
27 Krazy Koyote Bar & Grill, Defendants threaten to continue committing copyright
28 infringement. Unless this Court restrains Defendants from committing further acts of

1 copyright infringement, Plaintiffs will suffer irreparable injury for which they have no
2 adequate remedy at law.

3
4 **RELIEF REQUESTED**

5 WHEREFORE, Plaintiffs pray that:

6 (1) Defendants, their agents, servants, employees, and all persons acting under their
7 permission and authority, be enjoined and restrained from infringing, in any manner, the
8 copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

9 (2) Defendants be ordered to pay statutory damages per each claim of infringement,
10 pursuant to 17 U.S.C. Section 504(c);

11 (3) Defendants be ordered to pay costs, including a reasonable attorney's fee,
12 pursuant to 17 U.S.C. Section 505; and

13 (4) That Plaintiffs have such other and further relief as is just and equitable.

14
15 DATED: May 7, 2007.

16 Respectfully,

17 KAREN S. FRANK
18 SARAH M. KING
19 HOWARD RICE NEMEROVSKI CANADY
20 FALK & RABKIN
21 A Professional Corporation

22 By: Karen Frank
23 KAREN S. FRANK

24
25 Attorneys for Plaintiffs BROADCAST MUSIC,
26 INC. et al.
27
28

CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Federal Rule of Civil Procedure 7.1, the undersigned certifies that the following persons, associations of person, firms, partnerships, corporations (including parent corporations) or other entities (i) have a financial interest in the subject matter in controversy or in a party to the proceedings, or (ii) have a non-financial interest in that subject matter or in a party that could be substantially affected by the outcome of the proceeding.

- | | | |
|----|------------------------------------|------------------------------|
| 1. | Abkco Music, Inc. | Abkco Music & Records Inc. |
| 2. | Careers-BMG Music Publishing, Inc. | BMG Music |
| 3. | EMI Blackwood Music, Inc. | Screen Gems – EMI Music Inc. |

DATED: May 7, 2007.

Respectfully,

KAREN S. FRANK
SARAH M. KING
HOWARD RICE NEMEROVSKI CANADY
FALK & RABKIN
A Professional Corporation

By: Karen Frank
KAREN S. FRANK

Attorneys for Plaintiffs BROADCAST MUSIC,
INC. et al.

EXHIBIT A

Schedule

| | | |
|--------|-------------------------|--|
| Line 1 | Claim No. | 1 |
| Line 2 | Musical Composition | Billie Jean |
| Line 3 | Writer(s) | Michael Jackson |
| Line 4 | Publisher Plaintiff(s) | Michael Joe Jackson, d/b/a Mijac Music |
| Line 5 | Date(s) of Registration | 12/27/82 |
| Line 6 | Registration No(s). | PA 158-772 |
| Line 7 | Date(s) of Infringement | 5/4/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|-------------------------------|
| Line 1 | Claim No. | 2 |
| Line 2 | Musical Composition | Bring It On Home To Me |
| Line 3 | Writer(s) | Sam Cooke |
| Line 4 | Publisher Plaintiff(s) | Abkco Music, Inc. |
| Line 5 | Date(s) of Registration | 3/15/90 9/13/62 |
| Line 6 | Registration No(s). | RE 475-432 Ep 166883 |
| Line 7 | Date(s) of Infringement | 5/4/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|--|
| Line 1 | Claim No. | 3 |
| Line 2 | Musical Composition | Europa Earth's Cry Heaven's Smile a/k/a Europa |
| Line 3 | Writer(s) | Carlos Santana a/k/a Devadip; Tom Coster |
| Line 4 | Publisher Plaintiff(s) | Starfaith, L.P., a limited partnership consisting of Guts and Grace Records, Inc. (a California corporation), general partner, and Carlos Santana and Deborah Santana, as Trustees of the Santana Family Trust, limited partner, d/b/a Light Music |
| Line 5 | Date(s) of Registration | 3/31/76 |
| Line 6 | Registration No(s). | Eu 665436 |
| Line 7 | Date(s) of Infringement | 8/19/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|-----------------------------------|
| Line 1 | Claim No. | 4 |
| Line 2 | Musical Composition | Green River |
| Line 3 | Writer(s) | John C. Fogerty |
| Line 4 | Publisher Plaintiff(s) | Fantasy, Inc. d/b/a Jondora Music |
| Line 5 | Date(s) of Registration | 2/16/70 |
| Line 6 | Registration No(s). | Ep 272079 |
| Line 7 | Date(s) of Infringement | 5/4/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|------------------------------------|
| Line 1 | Claim No. | 5 |
| Line 2 | Musical Composition | Samba Pa Ti |
| Line 3 | Writer(s) | Carlos Santana |
| Line 4 | Publisher Plaintiff(s) | Careers-BMG Music Publishing, Inc. |
| Line 5 | Date(s) of Registration | 11/12/70 |
| Line 6 | Registration No(s). | Eu 221030 |
| Line 7 | Date(s) of Infringement | 8/19/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|---|
| Line 1 | Claim No. | 6 |
| Line 2 | Musical Composition | Aye Aye Aye |
| Line 3 | Writer(s) | Carlos Santana; Michael Shrieve; Karl Perazzo; Raul Rekow |
| Line 4 | Publisher Plaintiff(s) | Starfaith L.P., a limited partnership consisting of Guts and Grace Records, Inc. (a California corporation), general partner, and Carlos and Deborah Santana Family Trust, limited partner d/b/a Stellabella Music; Michael Shrieve, an individual d/b/a Maitreya Music |
| Line 5 | Date(s) of Registration | 12/03/02 |
| Line 6 | Registration No(s). | PA 1-120-576 |
| Line 7 | Date(s) of Infringement | 8/19/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|--|
| Line 1 | Claim No. | 7 |
| Line 2 | Musical Composition | Victory Is Won |
| Line 3 | Writer(s) | Carlos Santana |
| Line 4 | Publisher Plaintiff(s) | Starfaith L.P., a limited partnership consisting of Guts and Grace Records, Inc. (a California corporation), general partner, and Carlos and Deborah Santana Family Trust, limited partner d/b/a Stellabella Music |
| Line 5 | Date(s) of Registration | 2/23/00 |
| Line 6 | Registration No(s). | PAu 2-471-469 |
| Line 7 | Date(s) of Infringement | 8/19/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|--|
| Line 1 | Claim No. | 8 |
| Line 2 | Musical Composition | Tales of Killimanjaro |
| Line 3 | Writer(s) | Carlos Santana; Armanda Peraza; Raul Rekow |
| Line 4 | Publisher Plaintiff(s) | Starfaith L.P., a limited partnership consisting of Guts and Grace Records, Inc. (a California corporation), general partner, and Carlos Santana and Deborah Santana, as Trustees of the Santana Family Trust, limited partner d/b/a Light Music |
| Line 5 | Date(s) of Registration | 5/7/81 |
| Line 6 | Registration No(s). | PA 107-849 |
| Line 7 | Date(s) of Infringement | 8/19/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |

| | | |
|--------|-------------------------|-------------------------------------|
| Line 1 | Claim No. | 9 |
| Line 2 | Musical Composition | Drums Of Passion |
| Line 3 | Writer(s) | Michael Olatunji |
| Line 4 | Publisher Plaintiff(s) | EMI Blackwood Music, Inc. |
| Line 5 | Date(s) of Registration | 1/6/89 9/18/61 |
| Line 6 | Registration No(s). | RE 419-216 Eu 688006 |
| Line 7 | Date(s) of Infringement | 8/19/06 |
| Line 8 | Place of Infringement | Krazy Koyote Bar and Grill |
